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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,914	02/14/2002	Chandru Chandrasekaran	01-462	1739

27774 7590 09/24/2004

MAYER, FORTKORT & WILLIAMS, PC  
251 NORTH AVENUE WEST  
2ND FLOOR  
WESTFIELD, NJ 07090

EXAMINER

WEBB, SARAH K

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/075,914

Applicant(s)

CHANDRASEKARAN, CHANDRU

Examiner

Sarah K Webb

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

Art Unit: 3731

## DETAILED ACTION

### *Claim Objections*

1. Claim 10 is objected to because of the following informalities: the claim is labeled as "currently amended", but should be "original." Appropriate correction is required.

*THE APPLICANT IS DELETING A COMMA  
AFTER THE WORD "AND" — CLAIM IS PROPERLY  
LABELED.*

### **Claim Rejections - 35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 14 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear by the listing of various agents what is to be contained in the polymeric coating. Examiner suggests presenting the list in Markush form to read, "...comprise agents selected from the group consisting of..."

### **Claim Rejections - 35 USC § 102**

3. Claims 1-10, 13, 15, 18, 2-22, 25, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,824,049 to Ragheb et al.
4. Claims 1, 5-10, 12, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,725,567 to Wolff et al.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

5. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolff in view of US Patent No. 5,630,840 (Mayer).

6. Claims 14, 16, 17, 19, 23, 24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ragheb in view of Wolff.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Response to Arguments***

7. Applicant's arguments, see page 6, filed 8/3/04, with respect to Objection to the Drawings, have been fully considered and are persuasive. The objection to the drawings has been withdrawn.

8. Applicant's arguments filed 8/3/04 have been fully considered but they are not persuasive. Applicant argues that the Ragheb and Wolff stents do not meet the limitations of claim 1, in that the metallic components are not insufficient to maintain patency of a lumen in the absence of the polymer. Whether a metallic structure can maintain patency of a lumen depends on many factors, including the lumen into which it is implanted. Therefore, any prior art stent is capable of being insufficient to maintain patency of a lumen without a polymeric cover. Applicant provided illustrations of metallic structures that meet the limitations of the claimed invention. As explained in the prior office action, these structures are commonly known in the art of stents. There is no recitation of a specific structural characteristic in claim 1 that distinguishes the claimed invention from either the Ragheb stent or the Wolff stent. Further, the

Art Unit: 3731

specification does not provide examples of structural characteristics that would distinguish the claimed invention from prior art structures. The Ragheb and Wolff stents meet the structural requirements of the claims, as they have a metallic component and biodegradable polymeric cover.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K Webb whose telephone number is (703) 605-1176. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (703) 308-2154. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3731

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SKW  
09/20/2004

SKW

  
DAVID O. REIP  
PRIMARY EXAMINER